

## REMARKS

### Doubling Patenting

The Examiner provisionally rejects Claims 1, 2 and 7 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claim 3 of copending Application Number 10/942,045. Applicant respectfully notes that a provisional nonstatutory obviousness-type double patenting (ODP) rejection should not continue to be made if it is the only rejection remaining in the application. M.P.E.P. § 804(I)(B) ("The 'provisional' double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that 'provisional' double patenting rejection is the only rejection remaining in at least one of the applications."). The present application is filed on the same day as the cited copending application. Accordingly, if the Examiner finds the application to otherwise be in condition for allowance, Applicant requests that the Examiner withdraw the provisional obviousness-type double patenting rejection in the present application and allow the present application to proceed to issue. M.P.E.P. § 804(I)(B)(1) ("If a 'provisional' nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer."). Applicant will address any double patenting rejections in the cited application should they be raised at that time.

### Claim Rejections – 35 U.S.C. § 103

The Examiner has rejected Claims 1-3, 5-10 and 12-14 as being unpatentable over Okamoto (JP2002-230699) in view of Masaru (JP2003-177079). However, Applicants submitted that neither of these references can be used as prior art under 35 U.S.C. § 103(a), and thus, that the claims are in condition for allowance.

The publication dates of Okamoto and Masaru are August 16, 2002 and June 27, 2003, respectively. The priority date for the subject application is July 22, 2002. Thus, neither of the cited references was a printed publication at the priority date of the subject application. Furthermore, there are no U.S. or P.C.T. applications claiming priority to either of these

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references. Thus, Applicants respectfully request that the Examiner withdraw the rejections of Claims 1-3, 5-10 and 12-14, as well as the finality of the January 24, 2008 Office Action.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Serial Number	Title	Filed
10/522,022	STRESS-AT-WORK JUDGING APPARATUS, STRESS-AT-WORK JUDGING PROGRAM, AND STRESS-AT-WORK JUDGING METHOD	January 21, 2005

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated:

4/17/2008

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